

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----X
HEINS RODRIGUEZ,

5 PLAINTIFF,

6 -against-

Case No:
16-CV-5861

7
8 CITY OF NEW YORK; POLICE OFFICER ZHENG
9 ZUOPENG, SHIELD NO. 25461; POLICE OFFICER
10 ALEN CHEN, SHIELD NO. 28461; SERGEANT
11 MATTHEW S. STARRANTINO, AND JOHN AND JANE
12 DOE 1 THROUGH 10, INDIVIDUALLY AND IN THEIR
OFFICIAL CAPACITIES (THE NAMES JOHN AND JANE
DOE) BEING FICTITIOUS, AS THE TRUE NAMES
ARE PRESENTLY UNKNOWN,

13 DEFENDANTS.

-----X

14 DATE: July 27, 2018

15 TIME: 10:15 A.M.

16
17 VIDEOTAPED DEPOSITION of the
18 Defendant, POLICE OFFICER ALEN CHEN, taken
19 by the Plaintiff, pursuant to a Notice and
20 to the Federal Rules of Civil Procedure,
21 held at the offices of Elefterakis,
22 Elefterakis & Panek, 80 Pine Street, New
23 York, New York 10005, before Mila Gutman
24 Azimov, a Notary Public of the State of New
25 York.

1 A. CHEN

2 right?

3 A. Yes.

4 Q. Were you the driver or the
5 recorder that day?

6 A. I was sitting in the passenger
7 seat.

8 Q. Was your vehicle moving or
9 stopped?

10 A. Stopped.

11 Q. Where was Officer Zheng at the
12 time?

13 A. He was writing the summons.

14 Q. Was Officer Zheng inside or
15 outside of the vehicle when you first saw
16 Mr. Rodriguez?

17 A. I don't recall.

18 Q. The person that Officer Zheng
19 was issuing a summons to, where was that
20 person when you first saw Mr. Rodriguez?

21 A. I don't recall.

22 Q. Do you remember whether that
23 person was inside your vehicle, outside
24 your vehicle or something else?

25 A. Outside of the vehicle.

1 A. CHEN

2 Q. What direction was
3 Mr. Rodriguez travelling in on 104th when
4 you first saw him?

5 A. He was heading northbound on
6 104th Street.

7 Q. When you say a one-way-street,
8 do you mean that he's going against
9 traffic?

10 A. Yes.

11 Q. Just describe for me the
12 roadway; it's how many lanes?

13 A. One lane.

14 Q. One lane going in which
15 direction?

16 A. Southbound.

17 Q. One lane going south and I
18 believe you said that Mr. Rodriguez is
19 going north?

20 A. Yes.

21 Q. He's going against traffic?

22 A. Yes.

23 Q. It's one lane of traffic; are
24 there bike lanes on this road?

25 A. No.

1 A. CHEN

2 Q. Are there lanes for vehicles to
3 park?

4 A. Yes.

5 Q. On each side of the street?

6 A. Both sides.

7 Q. Is it one lane of parking on
8 each side?

9 A. Yes.

10 Q. Where -- strike that.
11 What direction was your car
12 facing?

13 A. Southbound.

14 Q. So you're going with traffic?

15 A. Yes.

16 Q. Are you near an intersection?

17 A. Yes.

18 Q. What intersection?

19 A. 43rd Avenue.

20 Q. How far from the intersection
21 of 43rd and 104th would you say that your
22 vehicle was?

23 A. I don't recall, but to the best
24 of my recollection, possibly two-car
25 lengths.

1 A. CHEN

2 Q. Are you on the east side of the
3 road or the west side of 104th?

4 A. I don't recall.

5 Q. Do you recall whether the
6 individual that Officer Zheng was issuing a
7 summons to was standing on the driver's
8 side, the passenger's side or something
9 else?

10 A. I don't recall.

11 Q. When you first saw
12 Mr. Rodriguez, describe for me where he
13 was; was he coming through the
14 intersection, was he already passed the
15 intersection or something else?

16 A. When I first saw him, he was
17 coming through the intersection.

18 Q. So he's headed north?

19 A. Yes.

20 Q. On 104th and he's coming
21 through the intersection of 43rd?

22 A. Yes.

23 Q. Is he coming directly towards
24 your vehicle, is he to the left of your
25 car, to the right of your car or something

1 A. CHEN

2 else?

3 A. He's to the -- to my right.

4 Q. To your right?

5 A. Yes.

6 Q. If you're on the passenger's
7 side, he's to the right of you?

8 A. Yes.

9 Q. Is your vehicle double parked?

10 A. I don't recall.

11 Q. So you don't know if there was
12 another vehicle to the left of your
13 vehicle; is that right?

14 A. Yeah, I don't recall.

15 Q. Was your vehicle obstructing
16 traffic?

17 A. I don't recall.

18 Q. Do you remember whether or not
19 you saw vehicles having to pass your car to
20 continue driving?

21 A. I don't recall.

22 Q. Do you remember the weather
23 conditions that day?

24 A. Sunny.

25 Q. So this was during the day?

1 A. CHEN

2 A. Yes.

3 Q. How about the condition of the
4 roadway, what was that like?

5 A. Clear.

6 MR. KELLY: Objection. You can
7 answer.

8 A. Clear.

9 Q. Was there any construction
10 going on?

11 A. I don't recall.

12 Q. I think you said that your
13 vehicle was about two, two-car lengths from
14 the intersection; is that right?

15 A. Possibly, to the best of my
16 recollection.

17 Q. You first observed
18 Mr. Rodriguez coming through the
19 intersection; is that right?

20 A. Yes.

21 Q. When you saw him, what did you
22 do next?

23 A. I stepped out of my vehicle and
24 tried to stop him with my hand signal.

25 Q. Just describe for me exactly

1 A. CHEN

2 what you did.

3 A. I stepped out of the vehicle
4 and put my right hand you up to stop him.

5 Q. When you stepped out of the
6 vehicle, did you step out and close your
7 door, was your door open or something else?

8 A. I don't recall.

9 Q. When you put your hand up --
10 strike that.

11 Had you walked a few steps in
12 front of the vehicle, were you standing
13 next to your vehicle, where were you when
14 you first put your hand out?

15 A. When I stepped out of the
16 vehicle, I put my hand up.

17 Q. You don't know whether or not
18 you were standing kind of behind your door
19 or in front of your door?

20 A. I don't recall.

21 Q. Describe for me how you put
22 your hand up.

23 A. I raised my right hand to stop
24 him.

25 Q. Is it fair so say that your

1 A. CHEN

2 right hand is kind of directly in front of
3 you?

4 A. Yes (indicating).

5 Q. Was your arm straight or was it
6 bent?

7 A. I don't recall.

8 Q. Did you say anything at the
9 time?

10 A. I don't recall.

11 Q. Did you say anything to Officer
12 Zheng at the time?

13 A. I don't recall.

14 Q. Why did you step out of the
15 vehicle and put your hand out?

16 A. To stop Mr. Rodriguez.

17 Q. Why did you want to stop him?

18 A. To issue him a summons.

19 Q. What did you want to issue him
20 a summons for?

21 A. Going down a one-way-street.

22 Q. At the time you were attempting
23 to stop Mr. Rodriguez, did you see any
24 other bicyclists in the area?

25 A. I don't recall.

1 A. CHEN

2 Q. What happened next after you
3 raised your hand?

4 A. Mr. Rodriguez did a U-turn and
5 went down 43rd Avenue going westbound.

6 Q. How far was Mr. Rodriguez from
7 you when you first put your hand up to stop
8 him?

9 A. To the best of my recollection,
10 possibly one car length.

11 Q. One car length?

12 A. Yes.

13 Q. How far was Mr. Rodriguez from
14 you when you observed him making a U-turn?

15 A. About one car length possibly.

16 Q. Did you make any eye contact
17 with Mr. Rodriguez or did he make eye
18 contact with you when you raised your hand?

19 A. Yes.

20 Q. Were any words spoken between
21 the two of you?

22 A. No.

23 Q. How about when he was making a
24 U-turn, was he looking at you, was he
25 looking away or something else?

1 A. CHEN

2 the west side?

3 MR. KELLY: Objection. You can
4 answer.

5 A. If I stepped out from the right
6 then I should be on the east side.

7 Q. Are you cutting across a lane
8 of traffic to follow him or something else?

9 A. No, it's one lane traffic.

10 Q. So did you -- did Officer Zheng
11 turn on any lights or sirens?

12 A. I don't recall.

13 Q. Do you recall if you had to
14 stop traffic or in any way impede traffic
15 when you had to make a right on 43rd?

16 A. I don't recall.

17 Q. What happened next?

18 A. We got -- we passed
19 Mr. Rodriguez.

20 Q. Okay.

21 A. And then we stopped the car and
22 when we were about to get out of the car,
23 he hit a parked car.

24 Q. Let me stop you. When you're
25 pursuing Mr. Rodriguez, approximately how

1 A. CHEN

2 fast was Officer Zheng travelling?

3 A. I'm not 100 percent sure.

4 Q. Would you say it was more than
5 ten miles an hour?

6 A. Yes.

7 Q. More than 15?

8 A. Yes.

9 Q. More than 20?

10 A. Yes.

11 Q. More than 25?

12 A. Possibly.

13 Q. More than 30?

14 A. Possibly. I wouldn't know. I
15 wasn't driving.

16 Q. When you first turn onto 43rd,
17 is Mr. Rodriguez in front of you?

18 A. Yes.

19 Q. Could you see him?

20 A. Yes.

21 Q. Did you ever lose sight of
22 Mr. Rodriguez when you were pursuing him on
23 43rd Avenue?

24 A. No.

25 Q. As you're pursuing